

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

THE STATE OF LOUISIANA,
By and through its Attorney General, JEFF
LANDRY, et al.,

PLAINTIFFS,

v.

JOSEPH R. BIDEN, JR., in his official capacity
as President of the United States; et al.,

DEFENDANTS.

CIVIL ACTION NO. 2:21-cv-778-TAD-KK

MOTION FOR STATUS CONFERENCE

Plaintiff States respectfully move for a prompt telephonic status conference in view of proceedings in *Friends of the Earth v Haaland*, No. 1:21-cv-02317 (D.D.C.), which may interfere with this Court's existing orders. In support thereof, Plaintiff States represent:

1. On June 15, 2021, this Court entered a preliminary injunction enjoining and restraining Defendants Secretary Haaland *et al* "from implementing the Pause of new oil and natural gas leases . . . in offshore waters as set forth in Section 208, Executive Order 14008." Order (ECF 140) at 1. This Court then expressly made clear that Defendants are "enjoined and restrained from implementing said Pause with respect to Lease Sale 257[.]" *Id.* at 2.

2. On July 27, 2021, Defendant Secretary Haaland testified before the Senate Committee on Energy and Natural Resources that "the Pause is still in place." RJD (ECF 148) at 1. Plaintiff States accordingly filed a Motion for Order to Show Cause and to Compel Compliance with Preliminary Injunction (ECF 149).

3. With Plaintiff States' Motion for Order to Show Cause pending, a subordinate of Defendant Secretary Haaland electronically signed a Record of Decision ("ROD") re-instatating Lease Sale 257 on August 31, 2021, 3:23 p.m.¹

4. At 7:17 p.m., *i.e.*, less than four hours after the ROD was signed, a group of environmental activists — Friends of the Earth, Healthy Gulf, Sierra Club, and Center for Biological Diversity — filed a 52 page complaint in the U.S. District Court for the District of Columbia alleging the ROD violates NEPA and the APA. Exh. 1. Metadata and filenames indicate at least some of the *Friends of the Earth* filings were prepared before the ROD was executed.

5. On September 8, 2021, the *Friends of the Earth* plaintiffs filed a "Notice Requesting Pre-Motion Conference" urging that "[e]xpedited consideration of the merits is . . . warranted because time is of the essence," and they "seek urgent relief: vacatur of the decision to hold this lease sale before the sale occurs this fall." Exh. 2 at 4.

6. "Upon consideration of Plaintiffs' notice requesting pre-motion conference, and in light of Plaintiffs' indication that the lease sale they seek to challenge may 'take place as early as October,'" the U.S. District Court for the District of Columbia ordered the parties to appear for a telephonic status conference on September 14, 2021, at 11:00 a.m., to discuss how best to proceed in this matter." Exh. 3 at Minute Order (Sept. 8, 2021).

7. Each of the plaintiffs in *Friends of the Earth* had previously sought to intervene in this case, and they did so without raising the NEPA and APA concerns on which they now seek to proceed on an expedited basis in D.D.C. Their claims related to the scope of the EIS directly contradict their arguments to this Court, *compare* Exh. 1 ¶¶ 5, 179, 181 *with* Br. Amicus Curiae (ECF 123) at 22-23, and appear to be foreclosed by D.C. Circuit precedent, *Center for Biological Diversity v. Interior*, 563 F.3d 466,

¹ The ROD is available at <https://www.boem.gov/sites/default/files/documents/oil-gas-energy/GOM-LS-257.pdf>

482-83 (D.C. Cir. 2009); *North Slope Borough v. Andrus*, 642 F.2d 689, 606, 609 (D.C. Cir. 1980). Indeed, analogous challenges by *Friends of the Earth* plaintiffs Sierra Club and Center for Biological Diversity to the EISs supporting Lease Sale 250 and Lease Sale 251 were rejected last year. *Gulf Restoration Network v. Bernhardt*, 456 F. Supp. 3d 81 (D.D.C. 2020). Such weak claims raise an inference that the underlying purpose is merely to delay and disrupt Lease Sale 257. *See* Mem. (ECF 73-1) at 1, 9 (explaining the putative intervenors “devoted years to advocating for a pause in federal oil and gas leasing” and “[t]he Sierra Club is dedicated to . . . slowing or stopping the expansion of fossil fuel production and infrastructure”).

8. Because the *Friends of the Earth* litigation seeks to delay Lease Sale 257 or cancel it altogether, a favorable ruling in that case will undermine this Court’s preliminary injunction by continuing the irreparable harm suffered by Plaintiff States. These duplicative proceedings threaten to undermine this Court’s jurisdiction, result in conflicting orders, and render this Court’s preliminary injunction a nullity. Accordingly, it is necessary for all relevant parties, including the *Friends of the Earth* plaintiffs, to confer with the Court to sort out these concerns.

WHEREFORE, Plaintiff States move for a prompt Status Conference, and further move that the Court order amici and putative intervenors Friends of the Earth, Healthy Gulf, Sierra Club, and Center for Biological Diversity participate in that status conference.

Dated: September 13, 2021

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Respectfully submitted,

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